

Ali S. Razai
ali.razai@knobbe.com
Joseph F. Jennings
joe.jennings@knobbe.com
Brandon G. Smith
brandon.smith@knobbe.com
KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 Main St., 14th Floor
Irvine, CA 92614
Telephone: (949) 760-0404
Facsimile: (949) 760-9502

Jonathan E. Bachand
jonathan.bachand@knobbe.com
Knobbe, Martens, Olson & Bear, LLP
1717 Pennsylvania Avenue N.W.
Suite 900
Washington, DC 20006
Tel: (202) 640-6400
Fax: (202) 640-6401

Inzer C. Ni
inzer.ni@knobbe.com
Stacy Rush
stacy.rush@knobbe.com
Knobbe, Martens, Olson & Bear, LLP
1155 Avenue of the Americas, 24th Floor
New York, NY 10036
Telephone: (212) 849-3000
Facsimile: (212) 849-3001

Yanna S. Bouris
Yanna.bouris@knobbe.com
Knobbe, Martens, Olson & Bear, LLP
1925 Century Park East
Suite 400
Los Angeles, CA 90067
Tel: (310) 551-3450
Fax: (310) 601-1263

Attorneys for Defendant
LULULEMON USA INC.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NIKE, INC.,

Plaintiff,

v.

LULULEMON USA INC.,

Defendant.

Case No.: 1:23-cv-00771-AS

**DECLARATION OF ALI S. RAZAI IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT**

I, Ali S. Razai, declare and state as follows:

1. I am a partner in the law firm of Knobbe, Martens, Olson & Bear, LLP (“Knobbe Martens”), and I am counsel of record for Defendant lululemon usa inc. (“lululemon”) in this action. I submit this declaration in support of lululemon’s Motion for Summary Judgment. Unless otherwise stated, I have personal knowledge of the facts set forth herein, and, if called upon to testify, I could and would testify competently thereto.

2. Attached hereto as Exhibit 1 is a true and correct copy of U.S. Patent No. 9,730,484.

3. Attached hereto as Exhibit 2 is a true and correct copy of U.S. Patent No. 9,375,046.

4. Attached hereto as Exhibit 3 is a true and correct copy of U.S. Patent No. 8,266,749.

5. Attached hereto as Exhibit 4 is a true and correct copy of excerpts from the Opening Expert Report of Christopher M. Pastore, Ph.D. on Infringement of U.S. Patent Nos. 8,266,749, 9,375,046, and 9,730,484 dated April 15, 2024.

6. Attached hereto as Exhibit 5 is a true and correct copy of the redacted transcript of the June 12, 2024 deposition of Christopher M. Pastore, Ph.D.

7. Exhibit 6 has been intentionally omitted.

8. Attached hereto as Exhibit 7 is a true and correct copy of the transcript of the June 5, 2024 deposition of Dr. David Brookstein.

9. Attached hereto as Exhibit 8 is a true and correct copy of the transcript of the February 20, 2024 deposition of Sandra Trapp.

10. Attached hereto as Exhibit 9 is a true and correct copy of Exhibit 28 to the Trapp Deposition, which are images of a shoe that I took during an inspection at adidas The Archive in Germany.

11. Attached hereto as Exhibit 10 is a true and correct copy of Exhibit 27 to the Trapp Deposition, which is a document bearing production numbers adidas_lululemon_00014135-14214.

12. Attached hereto as Exhibit 11 is a true and correct copy of Exhibit 22 to the Trapp Deposition, which is a document bearing production numbers adidas_lululemon_00014329-

14339.

13. Attached hereto as Exhibit 12 is a true and correct copy of Exhibit 23 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014362.

14. Attached hereto as Exhibit 13 is a true and correct copy of Exhibit 24 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014340-14345.

15. Attached hereto as Exhibit 14 is a true and correct copy of Exhibit 25 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014346-14361.

16. Attached hereto as Exhibit 15 is a true and correct copy of the April 5, 2002 Boston Globe Business Section, which was produced bearing production numbers LULU_NIKE-0087765-0087776.

17. Attached hereto as Exhibit 16 is a true and correct copy of NIKE0557541, which is an image of a physical poster produced by lululemon as LULU_P_074.

18. Attached hereto as Exhibit 17 is a true and correct copy of NIKE0557543, which is an image of a physical poster produced by lululemon as LULU_P_074.

19. Attached hereto as Exhibit 18 is a true and correct copy of excerpts from the Rebuttal Expert Report of Christopher M. Pastore, Ph.D. on Validity of U.S. Patent Nos. 8,266,749, 9,375,046, and 9,730,484 dated May 17, 2024.

20. Attached hereto as Exhibit 19 is a true and correct copy of Exhibit 5 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014286-14297.

21. Attached hereto as Exhibit 20 is a true and correct copy of Exhibit 6 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014298-14309.

22. Attached hereto as Exhibit 21 is a true and correct copy of Exhibit 7 to the Trapp Deposition, which is a document bearing production number adidas_lululemon_00014310.

23. Attached hereto as Exhibit 22 is a true and correct copy of Exhibit 8 to the Trapp Deposition, which are images of a shoe that I took during an inspection at adidas The Archive in Germany.

24. Attached hereto as Exhibit 23 is a true and correct copy of an article from espn.com

dated October 17, 2000 that was produced bearing production numbers LULU_NIKEFW-0079880-79882.

25. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from Volume 36, Issue 2 of Wrestling USA Magazine dated October 1, 2000 that was produced bearing production numbers LULU_NIKEFW-0087790-87871.

26. Attached hereto as Exhibit 25 is a true and correct copy of excerpts from Volume 36, Issue 1 of Wrestling USA Magazine dated September 15, 2000 that was produced bearing production numbers LULU_NIKEFW-0087921-88000.

27. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from Volume 37, Issue 11 of Wrestling USA Magazine dated May 15, 2002 that was produced bearing production numbers LULU_NIKEFW-0088001-88074.

28. Attached hereto as Exhibit 27 is a true and correct copy of excerpts from the November/December 2001 issue of USA Wrestler that was produced bearing production numbers LULU_NIKEFW-0090206-90210.

29. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the November/December 2000 issue of USA Wrestler that was produced bearing production numbers LULU_NIKEFW-0090211-0090213.

30. Attached hereto as Exhibit 29 is a true and correct copy of the Affidavit of Nathaniel E. Frank-White and Exhibit A thereto that was produced bearing production numbers LULU_NIKEFW-0092919-92930.

31. Attached hereto as Exhibit 30 is a true and correct copy of U.S. Patent No. 2,047,724.

32. Attached hereto as Exhibit 31 is a true and correct copy of Eberle, et al. Clothing Technology, Fourth Edition (1996).

33. Attached hereto as Exhibit 32 is a true and correct copy of a certified translation of Published Utility Model Application DE 299 15 625 U1.

34. Attached hereto as Exhibit 33 is a true and correct copy of a certified translation of

Japanese Unexamined Patent Application Publication JP 2002-129401.

35. Attached hereto as Exhibit 34 is a true and correct copy of excerpts from Nike, Inc.'s Responses and Objections to lululemon USA Inc.'s Fifth Set of Interrogatories (Nos. 10-23).

36. Attached hereto as Exhibit 37 is a true and correct copy of a collar for lululemon's Chargefeel Mid footwear product that was produced as part of a collection of components bearing the production number LULU_P_036. lululemon is lodging Exhibit 37 with the Court and an image of Exhibit 37 is included as a placeholder with this declaration.

37. Attached hereto as Exhibit 38 is a true and correct copy of a collar for lululemon's Chargefeel Mid 2 footwear product that was produced as production number LULU_P_057. lululemon is lodging Exhibit 38 with the Court and an image of Exhibit 38 is included as a placeholder with this declaration.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on July 29, 2024 in Irvine, California.

/s/ Ali S. Razai

Ali S. Razai